

## Message Text

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ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 PM-04 CIAE-00 DODE-00 NSAE-00  
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IGA-02 DHA-02 /063 R

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APPROVED BY ARA:CWBRAV  
PM/SAS:RTITUS (DRAFT)  
ARA/RPP:CFINAN (DRAFT)  
OSD/ISA-IA:MAJ.GEN.CAVAZOS(DRAFT)  
DSAA:WLIGON (DRAFT)  
ARA/ECA:RWZIMMERMANN (DRAFT)  
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O R 160416Z MAR 77  
FM SECSTATE WASHDC  
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CHMN USDEL JBUSMC BRASILIA IMMEDIATE  
CHMN USDEL JBUSMC RIO DE JANEIRO IMMEDIATE  
INFO AMEMBASSY BUENOS AIRES  
AMEMBASSY MONTEVIDEO  
AMCONSUL SAO PAULO  
AMCONSUL RIO DE JANEIRO  
USCINCSO IMMEDIATE

C O N F I D E N T I A L STATE 058197

JOINTSTATE/DEFENSE MESSAGE

E.O. 11652: GDS

TAGS:MASS, SHUM, BR, US

SUBJECT: EFFECT OF TERMINATION OF MUTUAL DEFENSE ASSISTANCE  
AGREEMENT

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REF: (A) BRASILIA 1908; (B) STATE 056038

1. PARAGRAPH 1 OF ARTICLE XII OF 1952 MUTUAL DEFENSE  
ASSISTANCE AGREEMENT (TIAS 2776; 4 UST 170) PROVIDES THAT  
AGREEMENT SHALL REMAIN IN FORCE UNTIL ONE YEAR FROM DATE OF  
RECEIPT BY ONE PARTY OF NOTICE OF INTENTION OF THE OTHER  
PARTY TO TERMINATE AGREEMENT. IT FURTHER PROVIDES THAT

CERTAIN PROVISIONS OF THE AGREEMENT, NOTABLY THOSE RELATING TO USE AND TRANSFER OF DEFENSE ARTICLES AND SERVICES, FURNISHED THEREUNDER, REMAIN IN FORCE NOTWITHSTANDING TERMINATION OF AGREEMENT, QUOTE UNLESS OTHERWISE AGREED UNQUOTE.

2. LEGAL EFFECT OF GOB NOTE (REFTEL (A)) IS THAT IT TRIGGERS ONE YEAR NOTICE PERIOD AS OF MARCH 11, 1977, SO THAT AGREEMENT WILL TERMINATE AS OF MARCH 11, 1978 (EXCEPT FOR THOSE MATTERS EXPRESSLY PRESERVED BY ARTICLE XII, PARA 1). WHILE ACTUAL TERMINATION HAS NOT YET TAKEN PLACE, FOLLOWING IS OUTLINE OF EFFECTS IT WILL HAVE ON BRAZILIAN SECURITY ASSISTANCE PROGRAM.

3. 1952 AGREEMENT SATISFIES REQUIREMENTS OF SECTION 505(A) OF FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED (FAA), REGARDING RECIPIENT COUNTRY AGREEMENT TO CERTAIN TERMS AND CONDITIONS APPLICABLE TO DEFENSE ARTICLES, RELATED TRAINING AND OTHER DEFENSE SERVICES FURNISHED UNDER FAA. IN ABSENCE OF THAT REQUIRED AGREEMENT, USG IS PROHIBITED FROM FURNISHING MILITARY ASSISTANCE (MAP) OR INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET) TO EXTENT THAT THAT TRAINING IS QUOTE RELATED UNQUOTE TO DEFENSE ARTICLES. PROHIBITION IS THEREFORE APPLICABLE ONLY TO GRANTS OR LOANS UNDER CHAPTERS 2 (MAP) AND 5 (IMET) OF PART II OF FAA. TERMINATION OF AGREEMENT WOULD NOT REPEAT NOT AFFECT ELIGIBILITY OF GOB TO MAKE PURCHASES OF DEFENSE ARTICLES OR SERVICES THROUGH FMS UNDER ARMS EXPORT CONTROL ACT (AECA), OR FOR EXTENSIONS OF CREDITS OR ISSUANCE OF LOAN GUARANTIES UNDER THAT AUTHORITY.

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4. APART FROM PROVIDING THAT ARTICLE I, PARAS 2 AND 4 (RELATING TO PERMISSABLE USES OF ASSISTANCE UNDER THE AGREEMENT, AND NON-TRANSFER ASSURANCES, RESPECTIVELY) SHALL REMAIN IN FORCE NOTWITHSTANDING TERMINATION OF THE AGREEMENT, ARTICLE XII ALSO EXPRESSLY PRESERVES IN FORCE AGREEMENTS ENTERED INTO UNDER ARTICLE I, PARA 3 (DISPOSITION OF ARTICLES WHEN NO LONGER NEEDED BY BRAZIL), PARA 5 (JUDICIAL PROCESS RELATING TO USE OF FUNDS), AND PARA 6 (SECURITY OF CLASSIFIED ARTICLES, SERVICES OR INFORMATION). THUS, GOB OBLIGATIONS UNDER THE AGREEMENT OF JANUARY 27, 1967 REGARDING DISPOSITION OF EQUIPMENT AND MATERIAL FURNISHED UNDER MAP (TIAS 6213; 18 UST 157) WOULD CONTINUE IN FULL FORCE AND EFFECT.

5. IT SHOULD ALSO BE NOTED THAT TERMINATION OF 1952 AGREEMENT DOES NOT REPEAT NOT AFFECT CONTINUATION IN FORCE OF NAVAL MISSION AGREEMENT OF MAY 7, 1942 OR OF JBUSMC AGREEMENT OF SEPTEMBER 20, 1955. NEVERTHELESS, TERMINATION OF

1952 AGREEMENT IS LIKELY TO LESSEN APPRECIABLY CHANCES OF GETTING CONGRESSIONAL APPROVAL NECESSARY FOR CONTINUATION OF JBUSMC AFTER SEPTEMBER 30, 1977. U.S. MILITARY PERSONNEL IN BRAZIL ENJOYING PRIVILEGES AND IMMUNITIES ONLY UNDER ARTICLE VI OF 1952 AGREEMENT WILL LOSE THOSE PRIVILEGES AND IMMUNITIES ON EFFECTIVE DATE OF TERMINATION UNLESS CONTINUED UNDER OTHER ARRANGEMENTS.

6. PRACTICAL EFFECT OF TERMINATION OF 1952 AGREEMENT ON ONGOING SECURITY ASSISTANCE PROGRAMS (INSOFAR AS THOSE PROGRAMS WOULD BE UNAFFECTED BY GOB "RENUNCIATION" OF SECURITY ASSISTANCE, A MATTER DISCUSSED FULLY REFTEL (B)), IS LIKELY TO BE MINIMAL. BRAZIL IS NO LONGER A MAP RECIPIENT, AND SHOULD ANY EQUIPMENT-RELATED IMET TRAINING BE IN

PROGRESS ON EFFECTIVE DATE OF TERMINATION OF AGREEMENT, SECTION 617 OF FAA PROVIDES LEGAL AUTHORITY FOR "WINDING CONFIDENTIAL

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UP" OF SUCH PROGRAMS SO THAT IMMEDIATE IMPACT OF TERMINATION OF AGREEMENT COULD BE LESSENED.  
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## Message Attributes

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22 May 2009  
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